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November 20, 2023

The Honorable Edgardo Ramos
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: United States v. Milton, Case No. 21-cr-478 (ER)

Dear Judge Ramos:

We represent Defendant Trevor Milton and write to advise the Court that our efforts to confer with counsel for Nikola Corporation (“Nikola”) on the issues raised in the Letter Motion¹ [Doc. 289] to use certain Subject Materials in this proceeding have been unsuccessful. We therefore respectfully ask that the Court grant the motion and allow those materials to be shared with Mr. Milton’s full criminal and appellate counsel and, if deemed appropriate, submit those materials to the Court under seal.

Following the hearing on November 16, 2023, undersigned counsel again transmitted to Nikola a list of specific documents and testimony Mr. Milton potentially would like to use in this matter. Specifically, we asked if the Company would object to our providing Mr. Milton’s counsel the following materials:

- Deposition and/or hearing testimony of Steve Girskey, Nikola Chairman; Mark Russell, former Nikola CEO; Kim Brady, former Nikola CFO; Britton Worthen, Nikola CLO; Kevin Lynk, former Nikola engineer; and Dane Davis, former Nikola engineer.
- Memoranda of interviews of current and former Nikola employees Mark Russell, Kim Brady, Britton Worthen, Tony Heaton, Pablo Koziner, Nicole Rose, Christian Appel, Michael Erickson, Vince Caramella, Stephanie Fleck, Erick Tuft, and Mike Chaffins.
- Notes taken during the above interviews.

1. Capitalized terms herein have the same meaning as ascribed to them in the Letter Motion [Doc. 289].

- Handwritten notes of CFO Kim Brady from 2020 related to Mr. Milton, Hindenburg Research, and related legal and regulatory proceedings.

For each of these categories, we clarified we had no interest in using any information related to Nikola's current operations or business plans or any information that could be considered proprietary or commercially sensitive.

We did not receive a response to this request.

As the Court noted at the recent hearing, the protective order at issue anticipated the eventuality of the Subject Documents being used as now requested, Mr. Milton's counsel has already received and reviewed those documents, and any use of those materials here would be done in a confidential manner. Nikola will not be prejudiced.

Given that sentencing, now set for November 28, 2023, is only eight days away, it is critical that counsel for Mr. Milton be allowed to access the Subject Materials now. We therefore respectfully renew our request that the Court grant the Letter Motion and provide the relief requested.

Respectfully submitted,

/s/

Terence Healy

cc: Counsel of Record
(by email only)

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